

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Chapter 13

ALFREDO T. DIAZ,

Case No. 02-42626

Debtor

Judge Thomas J. Tucker

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**ORDER DENYING DEBTOR'S MOTION FOR ORDER TO SHOW CAUSE**

This matter is before the Court on "Debtor's Motion for Order to Show Cause," filed December 14, 2005 (Docket # 86), seeking an order to show cause against the Internal Revenue Service ("IRS") because of the IRS's alleged violation of various Court orders. Debtor filed a Certificate of No Response on January 27, 2007. The Court cannot grant this motion, for at least two reasons.

First, Debtor's service of the motion on the IRS was inadequate. The "Certificate of Mailing" that Debtor filed regarding the motion states that Debtor served the IRS only at "ACS Support-Stop 5050" at a specified post office box in Kansas City. The filing of a motion seeking relief based on another's violation of a court order initiates a contested matter, which is governed by Fed.R.Bankr.P. 9014. Rule 9014(b) requires service of the motion in the manner provided for service of a summons and complaint by Fed.R.Bankr.P. 7004. Rule 7004, in turn, requires that service upon the IRS (like any service upon the United States) be done by serving, among others, the IRS, as well as the Civil Process Clerk at the Office of the United States Attorney for this district, and the Attorney General of the United States in Washington, D.C. *See* Fed.R.Bankr.P. 7004(b)(4) and (5); *see also* Fed.R.Bankr.P. 7004(a) and Fed.R.Civ.P. 4(i)(1) and (i)(2).

Second, a motion for a show cause order is not the proper motion to file when a party

claims that another party has violated an order of the Court. The proper motion is a motion for an order holding the other party in contempt and for related relief (*e.g.*, monetary sanctions and/or further injunctive relief).

For these reasons,

IT IS ORDERED that “Debtor’s Motion for Order to Show Cause,” filed December 14, 2005 (Docket # 86) is DENIED, without prejudice.

Date: January 30, 2006

/s/ Thomas J. Tucker  
Thomas J. Tucker  
United States Bankruptcy Judge

cc: Ronald D. Ambrose  
Tammy L. Terry, Trustee